

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/320/2018

Date of Reserve:06.11.2019
Date of Order: 03.01.2020

CORAM:

HON'BLE MR.GOKUL CHANDRA PATI, MEMBER(A)
HON'BLE MR.SWARUP KUMAR MISHRA, MEMBER(J)

Sri Banabihari Patel, aged about 61 years, S/o. Late Chandra Patel, presently residing at Plot No.5185, Meera Niwas, Badagada, Bhubaneswar-18, Dist-Khurda, Odisha and retired from Government service as Dy.Conservator of Forests.

...Applicant

By the Advocate(s)-M/s.S.K.Ojha
S.K.Nayak

-VERSUS-

Union of India represented through:

1. The Secretary to the Government of India, Ministry of Environment, Forests and Climate Change, Indira Paryavaran Bhawan, 6th Floor, Prithvi Block, Jor Bagh Road, Aliganj, New Delhi-110 003.
2. Secretary to Government of India, Ministry of Personnel, Public Grievance & Pensions, Department of Personnel & Training, North Block, New Delhi-110 001.
3. Principal Secretary to the Government of Odisha, Forest and Environment Department, Odisha Secretariat Building, Bhubaneswar, Dist-Khurda.
4. Principal Secretary to the Government of Odisha, General Administration Department, Odisha Secretariat Building, Bhubaneswar, Dist-Khurda.
5. Union Public Service Commission represented through its Secretary, Dholpur Hosue, Sahajahan Road, New Delhi-110 069.

...Respondents

By the Advocate(s)-Mr.L.Jena
Mr.S.Behera
Mr.J.Pal

ORDER

PER SWARUP KUMAR MISHRA, MEMBER(J):

Applicant is a retired Orissa Forest Service Officer. In this Original Application under Section 19 of the A.T.Act, 1985, he has sought for the following reliefs.

- i) To admit the Original Application.
- ii) To modify the Notification dated 17.05.2018 (Annexure-A/12) & Notification dated 24.05.2018 (Annexure-A/13) issued by the Respondent No.1 & Respondent No.4 respectively.
- iii) To direct the Respondent No.1 & 4 to issue necessary re-notification incorporating the name of the applicant placing him in the promotion list for the year 2009.

- iv) To direct the Respondents to extend all the consequential and financial benefits retrospectively as has been extended to other similarly situated persons.
- v) To direct the Respondents to calculate the arrear and pay the same with 12% interest till it is actually paid.
- vi) To pass any other order/orders as deemed fit and proper for ends of justice.

2. Grievance of the applicant is directed against the Notification dated 17.05.2018 (A/12) issued by the Government of India, Ministry of Environment, Forests & Climate Change, whereby and whereunder, his name does not find place for promotion to the Indian Forest Service notwithstanding the fact that the UPSC had recommended his name for such promotion and in this respect, on being called upon, he had tendered his willingness on 10.04.2018. Hence, aggrieved with the above, the applicant has invoked the jurisdiction of this Tribunal under Section 19 of the A.T.Act, 1985, seeking for the following reliefs as referred to above.

Respondent No.1 (Union of India) and Respondent Nos. 3 &4 (State of Orissa) have filed counters separately contesting the claim of the applicants, to which applicant has also filed rejoinder.

2. We have heard the learned counsels for both the sides and perused the records. It is to be noted that the facts of this matter being similar was heard with O.A.Nos.329, 330, 331 and 332 of 2018 disposed of on 4.12.2019. Since the point to be decided in this O.A. has already been decided vide common order dated 04.12.2019, in order to maintain consistency and uniformity in the administration of justice, we do not see any justifiable reason to make a departure from the view already taken under similar facts and circumstances. Accordingly, following the ratio decided therein, we make the following orders to be examined by the Secretary to the Government of India, Ministry of Environment, Forest and Climate Change, (Respondent No.1):

- i) Whether the Presidential Approval had been accorded in respect of the Select List 2008-A to 2014 for promotion to I.F.S. in so far as

applicant is concerned and if it turns to be affirmative, whether Respondent No.1 had acted within his authority to eliminate the name of the applicant from the purview of Notification dated 17.5.2018.

- ii) Whether promotion of the applicant to IFS stands repugnance to any of the provisions of Indian Forest Service (Appointment by Promotion) Regulation, 1966, on the ground that by the time the Notification dated 17.05.2018 came to be issued, he was no longer a Member of SFS having already retired from service and if the outcome stands to the contrary, whether Respondent No.1 has acted within the frame work of rules in not promoting the applicant to IFS .
- iii) If the consideration of the above two directives brings forth that the applicant ought to have been promoted to IFS in pursuance of Notification dated 17.05.2018, immediate steps shall be taken to give effect to the promotion of the applicant to IFS from the date his immediate junior was so promoted and in such eventuality, the applicant's pay shall only be fixed notionally in the cadre of IFS and he shall only be granted the pensionary benefits, as due and admissible, with effect from the date he would have retired from IFS had he been promoted in pursuance of Notification dated 17.05.2018.

11. The above exercise shall be completed by the Respondent No.1 within a period of 120 (One hundred twenty days) from the date of receipt of this order. In the result, the Original Application is allowed as above, with no order as to costs.

(SWARUPKUMAR MISHRA)
MEMBER(J)

(GOKUL CHANDRA PATI)
MEMBER(A)

BKS

